

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to
Develop a Successor to Existing Net
Energy Metering Tariffs Pursuant to
Public Utilities Code Section 2827.1,
and to Address Other Issues Related to
Net Energy Metering

Rulemaking R.14-07-002
(Filed July 10, 2014)

**Californians for Renewable Energy (CARE) Request for Official Notice
Of Jury Trial February 7, 2017 CARE et al. v CPUC et al. Case 11-04975 SJO**

1. Rule 13.9 of the Commission’s Rules of Practice and Procedure provides that “[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 *et. seq.*” California Evidence Code Section 452, subsection (c) states that judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” Official acts subject to judicial notice under Evidence Code Section 452(c) include records, reports and orders of administrative Agencies.

2. CARE requests that the Commission take official notice of the FIFTH AMENDED AND FIRST SUPPLEMENTAL COMPLAINT FOR EQUITABLE RELIEF (“Complaint”) filed on April 14, 2016, Attachment 1 herein, and the U.S. District Court’s SCHEDULING ORDER RE: JURY TRIAL, Attachment 2 herein.

3. The Complaint states, at pages 3 to 4:

4. Plaintiffs are Californians for Renewable Energy, Inc., a California Non-Profit Corporation [“CARE”] formed in 1999; and Michael E. Boyd and Robert Sarvey, qualified facility [“QF”] members of CARE, and certified

by the Internal Revenue Service as a tax exempt non-profit entity, meeting the legal requirements therefore. References herein to CARE Plaintiffs include Plaintiffs Boyd and Sarvey, officers of CARE.

5. California Defendants are: (a) Public Utilities Commission of California [“CPUC”], a California state agency, established under the California State Constitution as an independent agency, charged with inter alia California energy policymaking and, by express terms of federal laws on which this action is based, express delegated federal regulatory enforcement; (b) current CPUC Commissioner and President in his official capacity [dates of appointment in parenthetical]: Michael Picker [December 23, 2014 - present]; and (c) current CPUC Commissioners in their official capacities [dates of appointment in parentheticals]; Michael Peter Florio [January 25, 2011 - present], Catherine J. K. Sandoval [January 25, 2011 - present]; Carla J. Peterman December __ 2012 - present]; and Liane M. Randolph [January __, 2015 - present]. These Defendants are hereinafter collectively referred to as “CPUC Defendants” or “Defendant CPUC” and said references also include commissioners who served in earlier times, when earlier acts and/or omissions are alleged herein to have occurred. All of the acts and omissions as alleged herein concerning the CPUC and CPUC Defendants occur through the named commissioners in office at the time of each act or omission, and are sued in their official capacities; and any relief which might be obtained against CPUC can only be effected by enforcement against the CPUC commissioners currently holding office and the power to act.

4. The Complaint is relevant to Decision “D.16-01-044” where it states at pages 17 to 18:

51. Plaintiffs have repeatedly and concurrently complained informally and formally about the above-described unlawful acts and omissions of CPUC Defendants, and each of them, including without limitation the failure to properly and sufficiently regulate the field and the major utility / power grid owners, as required under PURPA and its FERC adopted implementing regulations, often with detailed cross-references to statutes, regulations and other actions. In each case, CPUC Defendants failed and/or refused to take corrective action, sometimes simply failing to act at all after protracted delays. [See e.g. CPUC Decision D-16-01-044].

5. The U.S. District Court's SCHEDULING ORDER RE: JURY TRIAL, issued July 20, 2016, Attachment 2, was issued by the United States District Court Central District of California, James Otero, Article III Judge presiding. The Order lists the time and date for the Jury Trial as "Jury Trial: Tuesday, February 7, 2017 @ 9:00 a.m."

Conclusions

6. CARE therefore requests Official Notice be taken of the attached U.S. District Court documents.

Respectfully submitted,



Michael E. Boyd President (CARE)

July 29, 2016

Attachment 1
(Separate Attachment)

Attachment 2
(Separate Attachment)